

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Expedited Package Services 3 (MC2010-28)
Negotiated Service Agreement

Docket No. CP2014-79

PUBLIC REPRESENTATIVE COMMENTS ON GEPS 3 AGREEMENT

(September 23, 2014)

The Public Representative hereby provides comments pursuant to Order No. 2186.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice of filing an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).²

GEPS agreements provide incentive pricing to businesses that mail products directly to foreign destinations using Priority Mail Express International (PMEI), Priority Mail International (PMI), or both. Notice at 4. To qualify for a GEPS agreement, a business mailer “must be capable, on an annualized basis, of paying at least \$200,000 in international postage to the Postal Service.”³

Prices and classifications not “of general applicability” for GEPS agreements were previously established by Governors’ Decision No. 08-7.⁴ In Order No. 86, the Commission established GEPS as a product on the competitive product list.⁵ The Commission subsequently approved the addition of the GEPS 3 product to the competitive product list (MC2010-28), and included within that product a GEPS agreement (CP2010-71) that would

¹ Notice and Order Concerning Additional Global Expedited Package Services 3 Negotiated Service Agreement, September 16, 2014 (Order No. 2186). .

² Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, September 15, 2014 (Notice).

³ Notice of the United States Postal Service of Minor Classification Change, Docket No. MC2012-8, January 30, 2012, at 3, showing conforming changes to the Mail Classification Schedule, 2510.3.1.

⁴ See United States Postal Service Notice of Filing Redacted Copy of Governors’ Decision No. 08-7, Docket No. CP2008-5, July 23, 2008.

⁵ See Order Concerning Global Expedited Package Services Contracts, Docket No. CP2008-5, June 27, 2008 (Order No. 86).

serve as the baseline agreement for functional equivalence comparisons with future agreements.⁶ Since the addition of the GEPS 3 product to the competitive product list, the Commission has determined that many additional GEPS 3 agreements were functionally equivalent to the baseline agreement and should be included in the GEPS 3 (MC2010-28) product.

The Postal Service states that the Agreement is functionally equivalent to the baseline agreement and is in compliance with the requirements of 39 U.S.C. § 3633. *Id.* at 7. The Postal Service therefore requests that the Agreement “be added to the GEPS 3 product grouping.” *Id.*

COMMENTS

The Public Representative has reviewed the Postal Service’s Notice, the Agreement, and supporting financial model filed under seal as part of the Notice. Based upon that review, the Public Representative concludes that the Agreement is functionally equivalent to the baseline agreement. In addition, it appears that the negotiated prices in the Agreement should generate sufficient revenues to cover costs and satisfy the requirements of 39 U.S.C. § 3633.

Functional Equivalence. The Postal Service asserts that the Agreement “shares similar cost and market characteristics . . . [and the] functional terms of the contract at issue are the same as those of the contract that is the subject of Docket No. CP2010-71, which serves as the baseline agreement for the GEPS 3 product grouping.” *Id.* at 3. However, the Postal Service identifies differences between the Agreement and the GEPS 3 baseline agreement. *Id.* at 4-7. In general, the differences include: the customer’s name and address; revisions to paragraphs; references to “Priority Mail Express International” instead of “Express Mail International” in the Agreement; revisions to numerous existing articles, as well as deletion, addition and renumbering of some articles; revision to Annex 1. *Id.*

The Postal Service maintains that these differences do not affect “either the fundamental service the Postal Service is offering or the fundamental structure of the contract”.

⁶ See Order Approving Global Expedited Package Services 3 Negotiated Service Agreement, Docket Nos. MC2010-28 and CP2010-71, July 29, 2010 (Order No. 503).

Id. at 6. The Public Representative agrees and concludes that the Agreement is functionally equivalent to the baseline agreement.

39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service.

The Postal Service's financial model does not directly address whether the addition of the Agreement to the GEPS 3 product will result in the product as a whole covering costs as required by 39 U.S.C. § 3633(a)(2). However, the Postal Service's financial model indicates that the negotiated rates in the Agreement will generate sufficient revenue to cover its attributable costs. Therefore, the addition of the Agreement to the GEPS 3 product will not cause the product's cost coverage to fall below 100 percent - assuming the product currently covers its attributable costs.⁷ Under this assumption, the addition of the Agreement should allow the GEPS 3 product to continue to comply with 39 U.S.C. § 3633(a)(2), and should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Moreover, the GEPS 3 product should improve the likelihood that competitive products as whole contribute an appropriate share to the Postal Service's institutional costs, consistent with 39 U.S.C. § 3633(a)(3).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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⁷ In the FY 2013 Annual Compliance Determination (ACD) Report, the Commission determined that the GEPS 3 product covered costs. See FY 2013 Annual Compliance Determination Report, March 27, 2014 at 87-88.